

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD,  
IOWA COMPREHENSIVE[591]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 455G.4 and 455G.9(1)“l,” the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, “Claims,” Iowa Administrative Code.

The proposed amendment to Chapter 11 is intended to implement 2010 Iowa Acts, House File 2531, section 180, which changes the authority to pay for the removal of underground storage tanks. Notably, the legislation places a dollar cap on the amount that may be expended per site.

Public comments concerning the proposed amendment will be accepted until 4 p.m. on May 20, 2011. Interested persons may submit written or oral comments by contacting the Administrator, Iowa UST Fund, 2700 Westown Parkway, Suite 320, West Des Moines, Iowa 50266; telephone (515)440-7015.

This amendment does not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 455G.9.

The following amendment is proposed.

Rescind subrule 11.3(11) and adopt the following new subrule in lieu thereof:

**11.3(11)** Permanent closure of an underground storage tank system.

a. Costs for the permanent closure of an underground storage tank system are eligible for reimbursement from the board if the following requirements are met:

(1) The underground storage tank system to be permanently closed meets one or more of the following criteria:

1. The system does not meet department performance standards for a new or an upgraded tank, or
2. The system is required to be closed in accordance with department rules, or
3. The owner of the system has opted to close the system at the owner’s own will prior to allowing the tank to become out of compliance.

(2) For the purpose of this rule, an “underground storage tank system” means all of the underground storage tanks, any connected underground piping, any underground ancillary equipment and any containment system on a particular site identified by a department UST registration number.

(3) The permanent closure activities occurred on or after July 1, 2010.

b. A claim for reimbursement from the board is subject to board preapproval requirements.

c. The board may elect to provide for the direct removal of any tanks eligible through a board-contracted vendor. If costs exceed the \$15,000 limit, the board may pursue a cost-recovery action in accordance with Iowa Code section 455G.13.

d. Claimants shall be responsible for ensuring that any persons performing work meet all applicable licensing requirements or all applicable certification requirements or both that may exist at the time of completion of the work to be reimbursed. If the work is performed by a board-contracted vendor, the board shall ensure that licensing and certification requirements of the general contractor are met.

e. Claims made under this subrule are not subject to Iowa Code chapter 455G copayment requirements.

*f.* The board may contract with a vendor to remove tanks at sites that fail to meet the requirements of subparagraph 11.3(11) “a”(1). These sites shall be subject to cost recovery, which may include placement of a lien on the property.

*g.* Prior to the permanent closure, budgets shall be provided to the administrator that outline the cost and scope of work proposed. The cost for system closure shall be separated from all other corrective action costs incurred on an individual tank site.

*h.* The maximum closure benefit payable from the remedial account on any tank system to be permanently closed after July 1, 2010, shall be \$15,000 for any one site identified by a department UST registration number.

*i.* Tanks and sites not eligible. Underground storage tanks that are not eligible for underground storage tank system closure benefits include:

(1) Farm or residential tanks of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes,

(2) Tanks used for storing heating oil for consumptive use on the premises where stored,

(3) Septic tanks, and

(4) Underground storage tanks which do not contain petroleum.